

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

LEO E. BRISBANE

*

Plaintiff

*

v

*

Civil Action No. JFM-09-2625

WARDEN

*

Defendant

*

MEMORANDUM

The above-captioned civil rights complaint was filed on October 2, 2009, together with a motion to proceed in forma pauperis. Because he appears to be indigent, plaintiff's motion shall be granted.

Plaintiff's claim concerns his alleged denial of access to courts when the Circuit Court for Charles County, Maryland dismissed a civil action he filed. Paper No. 1. The civil action plaintiff attempted to file concerns his claim that he was injured by Joel Ray Edelen and Rosetta Speake when they grabbed his arm, "causing damage to my left foot."¹ Paper No. 1 at p. 5. He further alleged that he was not given treatment for his injury and police officers for Laplata, Maryland where the incident occurred said "we should take this black monkey and hang him in a tree." *Id.* Plaintiff asserts his claim was not heard in the state court because he did not have the money to pay the filing fee.²

¹ Plaintiff also alleges Edelen jumped on his back, choked him and broke his ankle.

² A search of Maryland Judiciary Case Search website reveals plaintiff's motion to waive filing fees was denied with a notation that "civil assault has a one year [statute] of limitations and event happened two years ago." *Brisbane v. Delhaize America*, Civil action 08C09002631 (Ch. Co. Cir. Ct 2009); www.casesearch.courts.state.md.us

“Under the *Rooker-Feldman*³ [abstention] doctrine, a ‘party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court.’” *American Reliable Insurance v. Stillwell*, 336 F. 3d 311, 316 (4th Cir. 2003), *quoting Johnson v. De Grandy*, 512 U.S. 997, 1005-06 (1994). The *Rooker-Feldman* doctrine is jurisdictional and, as such, this court is free to raise it *sua sponte*. See *Jordahl v. Democratic Party of Va.*, 122 F.3d 192, 197 n. 5 (4th Cir.1997). “[T]he *Rooker-Feldman* doctrine . . . by elevating substance over form, preserves the independence of state courts as well as congressional intent that an appeal from a state court decision must proceed through that state's system of appellate review rather than inferior federal courts.” *Stillwell*, 336 F. 3d at 391.

Plaintiff's claim is, in essence, an attempt to obtain appellate review of the state court's decision in his case. Accordingly, it will be dismissed by separate order which follows.

October 22, 2009
Date

/s/
J. Frederick Motz
United States District Judge

³ *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482,(1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 416 (1923).